

## State Delegation of Environmental Acts December 2017

### **CLEAN AIR ACT (CAA)**

The CAA regulates air emissions from stationary and mobile sources. It authorizes EPA to establish National Ambient Air Quality Standards (NAAQS) and delegate the following programs to states.

**NSPS: New Source Performance Standards.** Under CAA Sec. 111, new or modified existing sources must operate in compliance with the technology-based emissions standards of performance, which limit the amount of certain pollutants that may be emitted.

**NESHAPS: National Emission Standards for Hazardous Air Pollutants.** EPA may add substances to the hazardous air pollutants (HAPs) list (CAA Sec 112(b)(1)) that can cause serious health problems when emitted.

**PSD: Prevention of Significant Deterioration.** This program aims to prevent significant deterioration of air quality in different areas that meet the NAAQS. For example, in national wilderness areas and parks, which cannot be redesignated, the maximum allowable increase of any criteria pollutant (ozone, NO<sub>x</sub>, CO, lead, PM, and SO<sub>2</sub>) is significantly lower.

**Title V: Operating permits.** A single permit may be issued for a facility with multiple sources. All operators must comply with permits issued under the CAA by EPA or by the state with permitting authority.

**NSR: New Source Review.** To receive a PSD permit, a new or modified major source must show that it will not contribute to a violation of the increments or of NAAQS, and that it will use Best Available Control Technology (BACT), which must be at least as stringent as the applicable NSPS or NESHAPS.

### **CLEAN AIR ACT STATE DELEGATIONS**

State	NSPS	NESHAPS	PSD	Title V	NSR
AR	P	P – Not area sources	A	A	A
LA	P	P	A	A	A
NM	P	P	A	A	A
OK	P	P	A	A	A
TX	P	P	A	A	A

## **CLEAN WATER ACT (CWA)**

The CWA aims to restore and maintain the nation's surface waters. It is implemented via various regulatory programs, which delegated states are authorized to enforce.

**NPDES: Nation Pollutant Discharge Elimination System.** A NPDES permit is required for any pollutant discharge from a point source into navigable waters. EPA or states with delegated authority are required to set limits (determined by national technology-based standards, state water quality standards, waterbody conditions, etc.) on pollutants that facilities may discharge.

**Pretreatment.** Publicly Owned Treatment Works (POTWs) are required to develop and impose pretreatment programs and standards for discharges from non-point sources. The pretreatment standard for existing sources is the Best Available Technology Economically Achievable (BAT), and the standard for new sources is the New Source Performance Standards (i.e., best demonstrated technology).

**Sludge Management.** Under CWA Sec. 405, sewage sludge disposal from a POTW operation that causes any pollutant to enter navigable waters is prohibited, unless in accordance with a NPDES permit.

**SRF: State Revolving Fund.** Under CWA Sec. 604(b), each state must annually reserve either \$100,000 or one percent of the sums allocated to the state for that year to finance two programs: the non-point source management plan under Sec. 205(j) and the continuing planning process for water quality standards and implementation plans under Sec. 303(e). While SRF is not delegable, states carry out water quality planning with SRF funds.

**Section 404: Wetlands.** Dredged or filled material discharge in wetlands is prohibited unless in compliance with a permit issued under CWA Sec. 404. This program, administered by the U.S. Corps of Engineers, only delegates authority to states for non-tidal, non-navigable waters and wetlands.

## **CLEAN WATER ACT STATE DELEGATIONS**

State	NPDES	Pretreatment	Sludge Management	Water Quality Planning	Wetlands
AR	Y	Y	Y	S	N
LA	Y	Y	Y	S	N
NM	ND	ND	ND	S	N
OK	Y – Not Oil & Gas	Y	Y	S	N
TX	Y – Not Oil & Gas	Y	Y	S	N

## **RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)**

RCRA aims to assist in the development of management plans and facilities for solid waste, hazardous waste, and underground storage tanks that hold petroleum products or other chemicals. States are delegated to oversee the following programs to ensure maximum protection from hazardous waste disposal and conservation of energy and natural resources.

### **Subtitle C: Hazardous Waste**

**Base program.** RCRA "General Provisions" Subchapter I is the foundation of this program, which includes requirements for safe recycling, composting, and storage and disposal of wastes.

**Corrective Action.** All facilities with a Treatment, Storage, and Disposal (TSD) permit (Treatment, Storage and Disposal) or which are operating under an interim status are required to clean up current and former waste treatment, storage, and disposal areas. Corrective action is the process through which areas (solid waste management units) of a facility, which could have received hazardous waste, are evaluated for safety and if necessary, are cleaned up.

**Mixed Waste.** This program regulates the treatment, storage, and disposal of hazardous wastes subject to RCRA and radioactive mixed wastes subject to the Atomic Energy Act.

**BIF: Regulation of Burning of Hazardous Wastes in Boilers and Industrial Furnaces.** This program controls emissions of toxic organic compounds, toxic metals, hydrogen chloride, chlorine gas and particulate matter from boilers and industrial furnaces which burn hazardous waste.

**Toxicity Characteristic: Toxicity Characteristics Revisions.** Toxicity characteristics are used to identify hazardous wastes or wastes subject to regulation under RCRA Subtitle C. States refer to EPA's national regulatory levels for toxic chemicals.

**LDR California Wastes.** Land Disposal Restrictions (LDRs) refer to a category of wastes previously banned in California which have subsequently been incorporated into RCRA. The classification includes free liquids associated with sludge, heavy metals, acids with pH less than 2, polychlorinated biphenols, and halogenated organic compounds. California wastes, with the exception of halogenated organic wastes, must be rendered into a solid before landfill disposal.

**LDR 1/3 Wastes.** LDRs for first scheduled wastes (first-third wastes) refers to the regulation of the first phase of LDR implementation for wastewaters, process residuals, preservative dippage, etc.

**LDR 2/3 Wastes.** Phase II LDR treatment standards treat newly listed wastes and those with organic toxicity characteristics. This may include soil and debris contaminated with first scheduled wastes and radioactive wastes mixed with first-third wastes.

**LDR 3/3 Wastes: Land Disposal Restrictions for Third Scheduled Wastes.** This program details the disposal of LDR 2/3 wastes, which may only be disposed of if the landfill has a permit (or is in interim status), and complies with the requirements.

**Subtitle D: Solid Waste.** The program details recycling, composting, and disposal of solid waste (e.g. garbage a waste treatment plant, water supply treatment plant, or air pollution control facility; discarded material from industrial, commercial, mining, and agricultural operations).

**Subtitle I: Underground Storage Tanks (UST).** This program provides regulations for USTs consisting primarily of gasoline, crude oil, and other petroleum products. Subtitle I includes requirements for tank notification, interim prohibition, new tank standards, reporting and recordkeeping requirements for existing tanks, corrective action, financial responsibility, compliance monitoring and enforcement, and approval of state programs.

### **RCRA STATE DELEGATIONS**

State	C/ Base Program	C/ Corrective Action	C/ Mixed Waste	C/ BIF	C/ Toxicity Characteristic	C/ California LDR	C/ LDR 1/3 Wastes	C/ LDR 2/3 Wastes	C/ LDR 3/3 Wastes	D/ Solid Waste	I/ UST
<b>AR</b>	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
<b>LA</b>	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
<b>NM</b>	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
<b>OK</b>	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
<b>TX</b>	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

## **SAFE DRINKING WATER ACT (SDWA)**

SDWA regulates public drinking water supply. Many states are delegated to play an important role in enforcing the following programs which protect drinking water and its sources.

**PWSS: Public Water System Supervision.** The Office of Drinking Water within each state environmental agency has the authority to implement the program if the state has primary enforcement responsibility (primacy), delegated by EPA.

**Wellhead Protection Program.** Each state must have an approved program to protect wellhead areas to protect its residents from contaminants with potentially adverse effects. This program delegates "wellhead protection areas," which are surface and subsurface areas surrounding a water well or well field which supply public water and through which contaminants are likely to move toward and reach it.

**Sec. 1422 Underground Injection Control (UIC).** Under SDWA Sec. 1422, the EPA or delegated state authority may control underground injections (subsurface emplacement of fluids by well injection (natural gas and oil are exempted)), which endanger drinking water resources with contaminants.

**Sec. 1425 UIC.** Delegated states may show that the underground injections in connection with oil or natural gas operations meet the requirements of the UIC program.

## **SDWA STATE DELEGATIONS**

State	PWSS	Wellhead Protection	Ground Water Rule	Coliform Drinking Water Rule	UIC/ 1422	UIC/ 1425
AR	Y	ND	Y	Y	Y	Y
LA	Y	ND	I	I	Y	Y
NM	Y	ND	Y	Y	Y	Y
OK	Y	ND	Y	Y	Y	Y
TX	Y	A	N	N	Y	Y

## **TOXIC SUBSTANCES CONTROL ACT (TSCA)**

TSCA addresses the protection, importation, use, and disposal of many toxic substances. Through delegation, states assist EPA in the oversight of various programs within the act.

**MAP: Model Accreditation Plan.** MAP requires people conducting asbestos-related activities in schools or public buildings to be certified by EPA.

**AHERA Waiver.** The Asbestos Hazard Emergency Response Act (AHERA) requires Local Education Agencies (LEAs) to inspect schools for asbestos-containing material and prepare management plans to reduce the hazard.

**Indoor Radon.** States may apply for grant assistance for developing and implementing programs for the assessment and mitigation of radon. Activities eligible for grant assistance are:

1. Surveys of radon levels, including special surveys in public buildings or certain geographic areas;
2. Development of public information and educational materials concerning radon assessment, mitigation, and control programs;
3. Implementation of programs to control radon in existing and new structures;
4. Purchase by the state of radon measurement devices;
5. Purchase of and maintenance of analytical equipment connected to radon measurement and analysis.
6. Payment of costs of EPA-approved training programs related to radon for permanent state or local employees;
7. Payment of general overhead and program administration costs;
8. Development of data storage and management system for information concerning radon occurrence, levels, and programs;
9. Payment of costs of demonstration of radon mitigation methods and technologies as approved by the EPA.
10. A toll-free radon hotline to provide information and technical assistance, etc.

**Lead based Paint Abatement Program .** Residential Lead-Based Paint Hazard Reduction Act of 1992, Lead, Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities Rule. This rule ensures that individuals conducting lead-based paint abatement, risk assessment, or inspection are properly trained and certified, that training programs are accredited, and that these activities are conducted according to reliable, effective and safe work practice standards.

**Lead based Paint Renovation, Repair, and Painting Program.** The Lead Renovation, Repair and Painting Rule (RRP Rule) requires that firms performing renovation, repair, and painting projects that disturb lead-based paint in homes, child care facilities and pre-schools built before 1978 have their firm certified by EPA (or an EPA authorized state), use certified renovators who are trained by EPA-approved training providers and follow lead-safe work practices.

## **TSCA STATE DELEGATIONS**

State	MAP	AHERA Waiver	Lead Paint RRP	Indoor Radon	Lead Paint Abatement
AR	N	ND	N	ND	Y
LA	Y	Y	N	NA	Y
NM	N	N	N	ND	N
OK	Y	Y	Y	ND	Y
TX	Y	Y	N	ND	Y

## **EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW ACT (EPCRA)**

EPCRA aims to help communities plan for emergencies involving hazardous substances. Delegated states are authorized to implement the following programs.

**Sec 313: Toxic Chemical Release Form.** EPCRA Sec. 313(c) specifies that owners or operators of facilities with toxic chemicals in quantities exceeding the threshold quantity established under Sec. 313(f) must complete a toxic release chemical form for each chemical.

**Sec 304.** This program details emergency notification and response procedures, which are required when a reportable quantity of an extremely dangerous substance from a facility that stores, produces or uses such substance is released. The chemicals for which notification must be given are the hazardous substances listed under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Sec. 302 and the extremely hazardous substances listed under EPCRA Sec. 9602.

**Sec 312.** The owner or operator of a facility required to have a Material Safety Data Sheet (MSDS) for a hazardous chemical under OSHA (Occupational Safety and Health Act), and regulations promulgated under OSHA must submit a MSDS or a list of such chemicals to the appropriate local emergency planning committee, the state emergency response commission, and the fire department with jurisdiction over the facility.

### **EPCRA STATE DELEGATIONS**

<b>State</b>	<b>SEC 313</b>	<b>SEC 304, 312</b>
<b>AR</b>	N	ND
<b>LA</b>	N	ND
<b>NM</b>	N	ND
<b>OK</b>	ND	ND
<b>TX</b>	ND	ND



## **FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)**

FIFRA controls pesticide distribution, sale, and use requiring EPA registering, licensing, and labeling. Through delegation, states can take primacy on some parts of this work.

**Sec 23: State Cooperation, Aid, and Training.** This program enables delegated state authority to train their personnel and assist the EPA in implementing cooperative enforcement programs.

**Endangered Species.** Endangered Species Protection Program relies on cooperation between the

U.S. Fish and Wildlife Service (FWS), EPA Regions, states, and pesticide users to ensure that, in concordance with the Endangered Species Act, pesticide use will not result in harm to species listed as endangered and threatened by the FWS or to habitat critical to those species' survival.

**Worker Protection.** This program details the safety regulations that aim to protect workers from risks posed by agricultural pesticides. The regulations require warnings about the applications, use of personal protective equipment, and restrictions on entry to treated areas.

**Groundwater Protection.** This program allows the continued use of necessary pesticides that would otherwise have been prohibited for potential environmental harm. Delegated states that want to use certain pesticides can prepare a generic State Management Plan for those listed by the EPA in the Federal Register to prevent and reduce the possibility of ground water pollution.

### **FIFRA STATE DELEGATIONS**

State	Sec 23(a)	Sec 23(b)	End. Species	Worker Protection	Groundwater Protection
AR	Y	Y	Y	Y	Y
LA	Y	Y	Y	Y	Y
NM	Y	Y	Y	Y	Y
OK	Y	Y	Y	Y	Y
TX	Y	Y	Y	Y	Y

## **OIL POLLUTION ACT (OPA)**

EPA established OPA in response to public concern over effects of the Exxon Valdez oil spill. OPA aims to provide standards and resources for the nation to adequately prevent and respond to future spills. The statute focuses on oil spills into navigable waters, and highlights the prevention of spills and liability for spill clean-up and damages to natural resources. States can acquire delegation of this work.

### **OPA STATE DELEGATION**

State	OPA
AR	ND
LA	ND
NM	ND
OK	ND
TX	ND

### **Key to Abbreviations in Delegation Tables**

#### **Codes**

<b>I</b>	Interim Status -- state is operating the program pending final EPA authorizations.
<b>IN</b>	In the process of being delegated/authorized or SIP approved.
<b>ND</b>	Not subject to delegation, but states may have approved program.
<b>P</b>	Partial Delegation/Authorization/Approval -- some parts of the programs have been approved but not the entire program.
<b>S</b>	State program -- program operated by the state, for which EPA approval is not applicable.
<b>A</b>	Approved state program or State Implementation Plan -- state's plan for meeting the applicable national standards.
<b>Y</b>	Delegated or Authorized -- the state runs the program under EPA oversight.
<b>N</b>	Not Delegated/Authorized/Approved

<b>N/A</b>	Not Applicable
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### **Qualifications**

<b>1</b>	The state has the authority to enforce some or all of these regulations; some approved through the SIP process, while others were delegated.
<b>2</b>	EPA still maintains responsibility for audit resolution.
<b>3</b>	Only the enforcement portion can be delegated.
<b>4</b>	Program close-out.

